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Foreword, 1945 Constitution of the Republic of Indonesia

'That independence is the right of all nations and therefore colonialism must be eradicated from the world for its injustice and inhumanity'

Defence of the accused

Joao Freitas da Camara

presented to the public prosecution in the Central Jakarta District Court

Jakarta, 2 May 1992

Facing a charge of subversion:	Joao Freitas da Camara
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FOREWORD

Firstly, I would like to express my gratitude for this opportunity to submit my defence in response to the charges of the Public Prosecutor.

During the reading of the charges of the Public Prosecutor on 25 April, I noted that none of the national or international legal considerations I have put forward in both my objection and during the investigations, have been taken to heart by the Public Prosecutor in making his charges. The foreword to the Indonesian Constitution of 1945, UN resolutions, along with the facts of the pre- and post-integration process in East Timor should all be taken into account by the Public Prosecutor in sentencing me. In my case and that of my friends who share my fate and struggle, the Public Prosecutor should not adhere simply to the guidelines of the constitution and national law. International law plays a more important role and must form the basis of the Public Prosecutor's sentence if it is to be a just one.

In the interests of justice in a case related to a political question, I the accused have the right to defend myself against charges which are entirely one-sided. This lack of objectivity is very evident when we look at the problem from a broad perspective and

not from our own self-interested one. Clearly the question of East Timor is not a national problem but rather an international one - a fact which the majority of the Indonesian people are unaware of but which the most senior Indonesian officials understand very well. This fact was evident in the statement of the then Foreign Minister, Mr Adam Malik, in the form of a written declaration to Mr Jose Ramos Horta, which states: 'Independence is the right of every nation, and the people of Portuguese Timor are no exception. The Indonesian government will continue in its efforts to foster good relations with an independent Portuguese Timor, regardless of who may be governing it' (letter dated 17 June, 1974). And then there is the statement of Mr Soebandrio, Foreign Affairs Minister in 1960, which reads: 'Indonesia has proclaimed the right to independence of all Indonesians under its authority; that is, in every region formerly colonised by the Dutch. We make no claim to other territories such as Borneo or Portuguese Timor which are part of the Indonesian archipelago but were never Dutch colonies'. Furthermore, in 1961, Mr Soebandrio repeated the same statement. In 1962, he stated firmly: 'Not only are we not making random territorial claims, but we also pronounce bravely that we have no intention of making such claims in the future' (a reaction to criticism from Africa of the agreement between Indonesia and Holland in relation to the status of Irian Jaya). The following example was given by the Minister: 'We make no claim to the part of Timor under Portuguese administration, even though the people of that region are of the same race as us'.

The above statements are consistent with all UN resolutions passed on East Timor since it entered the UN agenda in 1960 as an 'overseas territory' under Portuguese administration. Therefore, Portugal has a moral responsibility in accordance with UN resolutions to acknowledge the rights of the peoples under its administration to freely determine the course of their future, as has been implemented in other parts of the world. Ever since then (beginning in 1962) there has been a new resolution passed in relation to East Timor every year. Three decades have passed and not one of those resolutions has been implemented in response to events in East Timor both preceding and particularly following the invasion of the territory on 7 December 1975, including the deployment of inhumane military and intelligence forces.

The official position of the Indonesian government in relation to East Timor was one of supporting the people's right to self-determination and denial of all territorial claims.

Between 1954 and 1962, the UN General Assembly made a series of declarations regarding the dispute between Holland and Indonesia over Irian Jaya, during which time Indonesian representatives firmly stated that the boundaries of the Indonesian nation would only extend over the Dutch East Indies or Dutch colonial territories. Such a statement was repeated by Mr Soebandrio in 1960 at the time of the 15th session of the UN General Assembly. In that session, he brought up the question of Irian Jaya as a potential threat to the integrity and unity of the Indonesian state, but no similar question was raised in relation to Portuguese Timor. Similar statements were issued by the Indonesian Vice-President in the years that followed.

Following the West Irian controversy, Indonesia itself failed to issue statements in accordance with UN declarations on East Timor both before and after 1974.

Because Portuguese Timor represented a Portuguese 'overseas territory', and came under the administration of Portugal, the region has special rights, whilst Portugal itself has a moral responsibility to complete the process of decolonisation initiated by the UN in its declarations. In view of this reality, in 1962, the 17th General Assembly

session began to issue resolutions acknowledging the right of all Portuguese colonial territories to self-determination and independence.

The Public Prosecutor, as a defender of the Law and the Truth, surely realises that my case cannot be dissociated from the East Timor problem as a whole, and this problem in turn cannot be solved with Indonesian laws, since it is an international issue. The problem faced by East Timor as part of the United Republic of Indonesia over the last 16 years is proof that Indonesian law is incapable of solving the problem, since its authorities and security apparatus are no longer acting within the limits of the law of their own state. Therefore, I refuse to accept the charges laid against me by stating that the Public Prosecution team's charge is unacceptable on the basis of national and international legal principles, along with a number of facts as outlined below:

Your Honour,

I would like to to take this opportunity to explain in detail some fundamental points to invalidate the charges of the Prosecution team, which should be given further and just consideration by the Judge in sentencing me.

Honourable members of the Court,

From the various hearings that have taken place during this time, both in my capacity as a witness and as a defendant, I have noted and drawn the conclusion from the questions I have been bombarded with, that the Indonesian public knows nothing of what has taken place in East Timor, either in the period before or after the territory's integration into the United Republic of Indonesia. Therefore, I would like to explain the following to the honourable members of the Court:

II. The Struggle for Independence Under Portuguese Colonial Rule

East Timor, known in Indonesian as 'Timor Timur' was under Portuguese rule for 450 years. During this period of 4 and a half centuries, various attempts at opposing the colonial power were made. However, because at that time the people were beset with difficulties relating to weapons and communication, our forefathers' struggle for independence was successfully put down by the Portuguese, and appeals for outside support for our struggle never reached their target. Therefore, independence forces opposing the colonial power such as those in Cova, Cotubaba, Camanasa, Viqueque, Manufahi and elsewhere, were all defeated by the Portuguese.

From the time Portugal entered East Timor in 1512, and occupied Oe-kussi (1534), up until the time the island was divided up into Dutch and Portuguese Timor, the Portuguese were accepting of this reality since they directed their efforts at humanitarian development through the propagation of the Christian-Catholic faith, and with particular emphasis on love and other doctrines for the sake of the Timorese people. In carrying out their efforts, there were those, too, who had hidden agendas such as imperial expansion and who gave into the primordial desire for power. This hunger for power was a main factor in the deviations of purpose resulting in both the formal and informal oppression of the people.

These deviations were not in accordance with the fundamental teachings of Christianity which are older than the colonisation of Portuguese Timor. Finally, they

were faced with popular rebellion against all forms of authority on this earth.

The first rebellion took place in 1669 and was led by Francisco Ornai from Oe-kussi who had ambitions of becoming the Governor of East Timor. As a consequence of the rebellion, he was jailed and exiled to Flores, and he was succeeded as the King of Oe-kussi by Antonio da Costa, the son of the king of Flores. On 10 October, 1669, after the rebellion, the capital of Portuguese Timor was moved to Dili.

The shift of the capital did not quell the desires of the people of Portuguese Timor for independence as a result of inhumane treatment and an ever widening social gap. Consequently, a wave of rebellions such as those taking place in Cova, Camanassa, Cotobaba, Laklo (Manatuto), Viqueque, Vemasse and the largest in Manufahi (Same) in 1912 led by Don Boaventura, grew up. The Manufahi rebellion began with a pact between a number of petty kings in Portuguese Timor to oppose the corruption and oppression of the Portuguese towards the Timorese people. This corruption and oppression was keenly felt by all of the people. However, the rebellion did not succeed in changing the situation because on the appointed day things didn't go as planned, with the kingdom of Same not coordinating with the other petty kingdoms. The king of Same tried to flee, but was caught in Balibo and then imprisoned in Aipelo. He died there and his corpse was buried in the Santa Cruz cemetery, Dili.

The Manufahi rebellion or revolution illustrates the Timorese people's resilience and their strength of purpose in fighting for their liberation from colonial rule. Their attempts did not mean defeat, but simply a postponement of victory. After this largest rebellion, a number of others emerged, such as the Mindelo Ulmera rebellion in Maubisse in 1939 and the Watulari rebellion in 1959. So both before and after the 2nd World War the people of Portuguese Timor made numerous attempts to gain their independence, although only a small number of these are documented.

Such a historical reality is proof that the course of Indonesia and East Timor's histories are not and have never been the same, despite the fact that the colour of our skin is the same.

Kings such as Majapahit, Sriwijaya, Diponegoro and others figure in neither the history nor the legends of the people of East Timor. Therefore, as human beings we are brothers and sisters, but not because we share a common history or world view. Sharing a common humanity means respecting the rights of individuals and nations, and not violating and suppressing them.

Honourable members of this Court,

My intention in relaying to you something of East Timor's history is to make all present aware that East Timor's independence struggle did not begin with UN resolutions or with the events of 1975, but rather commenced long before Indonesia even knew of its existence, that is in 1669. It is an age-old desire of the people of East Timor to live independently of any colonial authority. Because this desire represents a fundamental right of every man and nation, the struggle for this end will never vanish.

History always repeats itself. It is certainly true of East Timor, both before 1975 (from the 1960's to 1975) and after that year.

The following are the historical facts:

III. The Carnation Revolution in Portugal, 1974

In the period before 1974, Portugal was in possession of 12 colonial territories, including Portuguese Timor which was annexed by Indonesia in 1975 and renamed 'Timor Timur'. However, because the Portuguese system of government was out of touch with the developments of the age, the Carnation Revolution took place in Portugal on April 25, 1974, to replace the old government with a new system of government which would truly represent and fight for the little people who make up the majority of the population. Therefore, on that date the dictator Antonio Oliveira Salazar fell from power and was replaced by a Junta which gave freedom to its 12 colonial territories via a process of self-determination. As a result of this Revolution, the people of Portuguese Timor formed 5 political parties, 3 of which played an important role in shaping the modern history of East Timor to the present day.

Before I give a general overview of each party, including their aims, I would like to quote the Public Prosecutor in his charges made against me:

The Process of Integration

* The Portuguese colonised East Timor for over 400 years.

* This lengthy period of colonial rule left a legacy of misery and poverty amongst the Timorese people. No attention was every paid to development, health or education.

In the context of throwing off the chains of colonialism in East Timor, the people stated:

* Their desire to be freed of Portuguese colonial rule

* Their desire to join with the United Republic of Indonesia

* The above desire was made explicity clear in :

  - The Balibo Declaration, dated 30 November, 1975

  - The Petition of the People and Provisional Government of East Timor, dated 31 May 1976 and submitted to the government of Indonesia in Jakarta on 7 June, 1976.

In order to witness and get a first-hand impression of the real situation in East Timor, and based on Presidential Decree No 113/LN/1976 dated 22 July, 1976, the Indonesian government sent a delegation to East Timor, which consisted of the following:

* Government representatives
* Parliamentary representatives
* Representatives of community organisations

The government and people of Indonesia acknowledged and accepted the group's findings which were that the true aspirations of the people of East Timor were to integrate with the Indonesian republic.

This acknowledgment of the Indonesian government is based on a responsibility to humanitarianism, to history, to the principles and ideals of freedom and to the consciences of the Indonesian people and nation, all of which are founded on Pancasila and the 1945 Constitution.

With Law No 7 of 1976 which states:

'With the integration of East Timor into the Republic of Indonesia and the forming of the Province of East Timor', the integration of East Timor was legally sealed and fully justified.

Ruling No VI/MPR/1978 of the People's Consultative Assembly concerns 'The strengthening of the integration of the province of East Timor into the United Republic of Indonesia'.

There are three fundamental points contained in the above questions, and they are:

1. Because of East Timor's backwardness throughout 400 years of Portuguese colonial rule, the people of East Timor desire to free themselves from their colonisers

2. There is a desire on the part of the people to be united with the Republic of Indonesia

No one can deny the validity of Point 1. However, in order to illustrate something about Point 2, I invite all members of this Court to listen to a further explanation concerning the 5 political parties formed in Portuguese Timor in response to the Carnation Revolution in Portugal on 25 April, 1974, and their development. The 5 parties are:

1. a) Fretilin (Frente Revolucionaria de Timor Leste Independente). Throughout its campaign, this party succeeded in attracting the support of around 75% of the people of Portuguese Timor. The aim of this party was to achieve the independence of East Timor and it succeeded in establishing the Democratic Republic of East Timor on 28 November 1975, in the capital, Dili. The proclamation of independence was acknowledged and supported by 72 UN member nations.

   b) Uniao Democratica Timorense (UDT) which means the Timorese Democratic Association. This party's main aim was federation with Portugal. This party enjoyed the support of only around 15% of the people of Portuguese Timor.

   c) Apodeti, the Timorese Popular Democratic Association's objective was to bring about the integration of East Timor into Indonesia under the supervision and auspices of the UN, with a view to later forming a state allied with Indonesia. This party had the support of around 6% of the population.

   d) The Kota and Trabalhista parties were the smallest of the parties which embraced the basic principles of the first 2 parties, i.e. Fretilin and UDT, with the political objective of independence for Portuguese Timor. The 2 parties had the support of around 2% of the population each.

2. a) According to the above explanation, it is clear that if a free general election had taken place in Portuguese Timor, Fretilin would have emerged as the winner. Therefore, UDT leader Francisco Lopes da Cruz, now a member of the Indonesian parliament and who has amibitions of gaining power for himself, attempted to defeat Fretilin via an armed coup and through straying from the path of democracy. Therefore, at midnight on 11 August 1975, the UDT coup was

launched led by UDT and Francisco Lopes da Cruz. Because the methods adopted were unjust and undemocratic with regards to the other parties, on 20 August 1975 the Portuguese army acted to neutralise the situation by appealing to UDT to surrender their arms;

b) After 9 days of the coup, Francisco Lopes da Cruz became aware that this coup was about to fail. Therefore, he fled with his colleagues to the border of East Nusa Tenggara province, ignoring Portugal's call for UDT to surrender their arms and solve the problem democratically.

c) On the border of Portuguese Timor and Indonesia's Nusa Tenggara province, the intervention of Indonesia and its oppressive apparatus was already being felt by the people of East Timor whose status was still that of Portuguese citizens. The Indonesian government had already made a serious mistake in sending in its soldiers to fight alongside the UDT refugees against the Portuguese army. From this intervention, it is obvious that the desire to integrate with Indonesia, as quoted in the Public Prosecutor's charge, was not the desire or the aspiration of the people of East Timor, but rather the desire of the government of Indonesia to annex East Timor. Therefore, Law No 7 of 1976 regarding the 'integration of East Timor into the Republic of Indonesia and the forming of the province of East Timor' is invalid since it does not reflect the people's aspirations but rather the territorial ambitions of the Indonesian government and supported by the Armed Forces as its security apparatus. This fact became even more obvious when ABRI invaded the province's capital on 7 December 1975, making use of its army and air and sea forces.

d) At the end of October and beginning of November 1975, ABRI's involvement in opposing the Portuguese army on the border was manifested in the death of a number of Indonesian soldiers, shot dead by the Portuguese. With such strong proof of foreign interference in our internal affairs, Fretilin mobilised its volunteers and militia to join in the fight against UDT and ABRI. With clear proof of Indonesian interference in our affairs, the Fretilin leaders saw the urgency of proclaiming Portuguese Timor's independence, before an official invasion was launched by Indonesia and despite Portugal's opposition.

e) Therefore, on the morning of 28 November 1975, our National Flag was raised for the first time in front of the Government Palace, now the Governor's Office, and with that the Democratic Republic of East Timor was born. The independence proclamation was acknowledged by 72 member nations of the UN, and the new government under the leadership of Francisco Xavier do Amaral, immediately sent a delegation consisting of 5 people, among them Foreign Minister Jose Ramos Horta, to campaign against Indonesia in international fora, particularly at the UN headquarters in New York, because Indonesian interference in the internal affairs of the new republic was already evident on the border with East Nusa Tenggara.

IV. The ABRI Invasion Behind the Balibo Proclamation, 30 November 1975

1. After more than 3 days, all of the orchestrators of the 11 August coup fled to the border, and finally on 30 November 1975, a radio broadcast announced the 'Balibo Proclamation of the East Timorese people', Balibo being a small town not far from the border with East Nusa Tenggara province. It is extremely doubtful

that the proclamation was made in a town in that area since at that time the entire area surrounding Balibo was controlled by Falintil (the Armed Forces of National East Timorese Liberation).

2. On 7 December 1975, at around 5 am in the morning, ABRI launched its official invasion, entering the capital by air (parachutes), land and sea, reinforcing those forces which had already entered Balibo and Maliana via the border. Thus, Indonesia's invasion and integration of the region of East Timor into the United Republic of Indonesia was realised and the province of East Timor was formed, reflecting the political manipulation by the Indonesian government of the East Timorese peoople in particular and the Indonesian people in general, and resulting in the loss of hundreds of thousands of innocent lives.

V. UN Condemnation of ABRI's Invasion

1. In response to the invasion of 7 December 1975, on 12 December 1975, the UN General Assembly in New York, USA, passed resolution No 3485 which, amongst other things:

   - strongly condemned ABRI's invasion of East Timor

   - called on Indonesia to immediately and unconditionally withdraw its troops from the territory and to

   - respect the right of the East Timorese people to self-determination and independence

2. On 22 December 1975, the UN Security Council convened and issued Resolution No 384 which made the same demands of Indonesia as the General Assembly Resolution of 12 December.

   As evidence, I attach photocopies of UN Resolutions passed in relation to East Timor in 1975, 1976, 1977 and finally in 1982.

VI. Honourable Members of the Court,

1. If the points outlined above (III 1.a - V.2) are closely analysed from a legal perspective, it can be concluded that what is known as the 'Balibo Declaration' of 30 November 1975 is in conflict with the principles of a constitutional state which Indonesia claims to be. On the contrary, the following explanation is proof of the illegality of the above-mentioned proclamation which represents a political manipulation forced by ABRI on those who fled from the failed coup attempt of 11 August 1975, and is evidence of Indonesia's interference in our internal affairs:

a) The Balibo Declaration of 30 November 1975, was signed after the Democratic Republic of East Timor was proclaimed by the people of East Timor on 28 November 1975 in the capital, Dili;

b) The Balibo Declaration was signed outside the East Timor capital and could not even have been made within the boundaries of the Democratic Republic of East Timor since at that time Balibo and surrounds were under the control of the

East Timor National Liberation Army (Falintil).

c) The Balibo Declaration violates the objectives of the Political Parties represented by the signatories of the Declaration. Those who signed the Declaration were representing themselves and by no means the supporters of each of their parties, since their supporters aspired not to total integration with Indonesia, but rather Federation and later independence;

In addition to the above points (a-e), the following should also be noted:

a) Domingos Oliveira, one of the signatories from the UDT party, had already left East Timor to reside in Portugal at the time East Timor was proclaimed Indonesia's 27th province. He left because he was disillusioned with the way in which ABRI forced the individuals concerned to sign the Declaration;

b) Jose Martins from the Kota party and another signatory to the Declaration deserted to Portugal from the Delegation Team sent by the Indonesian government to the UN in New York after the Declaration was made. The aim of the delegation was to defend the Indonesian occupation of East Timor. Martins now lives in exile;

c) A number of key figures in the signing of the Declaration were appointed to positions and then sacked from them before completing their terms of assignment due to ABRI's realisation that these individuals were capable of influencing the people of East Timor in opposition to Indonesia, in response to ABRI's inhumane treatment of the population. After being fired, they were given insignificant posts with little or no power and were isolated from their district of origin to prevent them from influencing the opinion of their supporters among the population.

Based on the above facts, it is clear that the Balibo Declaration represents nothing more than political manipulation on the part of the Indonesian government and relying on military force exerted against these individuals who fled from the failed coup attempt of 11 August 1975. The Indonesian government used the occasion of internal conflict in the territory to realise their territorial ambitions and to invade and annex East Timor. Therefore, the formation of the Provisional Government of East Timor which submitted the Petition of the People and Provisional Government of East Timor, Dili, 31 May 1976 to the Indonesian government in Jakarta on 7 June 1976, represents a further manipulation of the Indonesian government aimed at misleading the Indonesian people in particular, and the international community in general.

In view of the above, Law No 7 regarding the integration of East Timor into the United Republic of Indonesia and other Rulings on the Province of East Timor are illegal and invalid as they are all the fruits of the Indonesian government's political manipulations carried out with the help and force of the oppressive apparatus known as ABRI against a number of East Timorese leaders. East Timor's integration into Indonesia cannot therefore be justified as representing the fulfilment of a 'request' or the will of the people since a free referendum in which the true aspirations of the people are sought has never been carried out. As proof, the US which has always stood with Indonesia on the question of East Timor, does not accept the methods employed by Indonesia in integrating the territory.

Long before the Jakarta government formed the Provincial Government of East Timor in Dili in 1976, the majority of the people (that is, around 80%) had already expressed their aspirations through the Independence Proclamation of November 28, 1975, in Dili. As a result of the invasion of Dili on 7 December 1975, the President of the new Democratic Republic, Francisco Xavier do Amaral, and the Prime Minister, the late Nicolau dos Reis, were forced to withdraw to the interior of the island.

Therefore, in the name of all East Timorese who share my struggle and fate, I call on the Indonesian government and its entire apparatus, to respect the right to self-determination of the East Timorese in accordance with UN Resolutions which reflect their aspirations. I appeal to you not to employ dishonest and corrupt politics along with an oppressive apparatus to intimidate the people and rob them of their fundamental rights.

We hope that Indonesia as a state based on a Constitution can act in accordance with the legal principles of that Constitution to justly, wisely and fully resolve the question of East Timor for the sake of upholding justice and defending the truth and for the sake of Indonesia's good name and authority as a constitutional, not a military, state.

The Indonesian government's integration of East Timor represents a violation of the principles contained in the foreword of its very own 1945 Constitution. This fact would suggest that the Indonesian government has vioated the principles of a constitutional state struggling for justice. Thus, Indonesia's integration of East Timor into the Republic of Indonesia is far from being an act based on a humanitarian responability, blet alone a responsibility to history and the ideals of freedom, since East Timor has its own distinct cultural background, vastly different from that of Indonesia, and its people's aspirations for independence have been robbed. The annexation of East Timor is not based on principles of responsibility, but rather on its territorial ambitions. In diverging far from the principles of its state constitution, that is the Pancasila and the 1945 Constitution, the Indonesian government has proved that in relation to East Timor its intentions are not noble.

VII. The Development of a Political Propaganda Machine for Defending the Occupation and Covering Up Oppression in East Timor

In response to the question of the Indonesian government's efforts to develop East Timor, as detailed at great length by the Public Prosecution Team, let me say that not one East Timorese denies this development and we are appreciative of Indonesia's efforts in this regard. However, it needs to be said that the government's development efforts in East Timor represent not only a good service, but also the obligation of the state which must take responsibility for its actions over the period of its occupation since 7 December 1975 to the present date.

Honourable Members of this Court,

In the early years of the ABRI invasion, hundreds of villages and hundreds of thousands of homes including traditional houses were razed to the ground by ABRI as part of efforts to wipe out the nationalist forces. Beautiful and durable tradtional houses which have a long life despite being made of wood and dried grass, were lost. The losses suffered by the Timorese people are incalculable, many of them shot dead and then their possessions stolen and homes burned down. From this point of view

alone, the losses inflicted by the irresponsible and inhumane ABRI troops cannot be paid for with 16 years of government development efforts. Therefore, it is possible to view that development as the Indonesian government's attempt to right the wrongs it has committed in continuing its occupation over East Timor. The development is political in nature and aimed at giving the impression to the outside world that the Indonesian government cares about the fate of the East Timorese people whilst the reality is that their fundamental rights have been robbed from them. The rights to express an opinion, to associate, to organise have all been trampled on. Freedom of movement is limited and bloody murders of the East Timorese people have occurred in every corner of our fatherland. Such bloody incidents since the invasion culminated in the appalling incident of 12 November 1991 at the Santa Cruz cemetery, Dili. This event is only one of many occurring since ABRI's occupation of East Timor and is the only one which has made it into the spotlight of the Indonesian and international communities' attention. As an example, permit me your Honour to recount a number of cases of mass slaughter committed by ABRI against the people of East Timor:

a) DILI - On 7 December 1975 in Ponte Cais (Dili Harbour), over 160 civilians were shot dead, 86 among them of Chinese origin and including women and children, and 5 members of Fretilin including the late wife (Isabel dos Santos Lobato) of the 2nd President of the Democratic Republic of East Timor, Nicolau dos Reis Lobato.

   - On 8 December 1975, in front of the Social Welfare building in Kaikoli, around 60 civilians were shot dead.

   - 14 civilians were executed on 14 December, 1975 in Manu Meta Raihun.

   - On 18 April 1979 in Tasi Tolu, more than 50 people, many of them Fretilin members, were executed.

   - On 10 June, 1980 in Tasi Tolu, over 300 people were executed and their bodies thrown into the Tasi Tolu lakes.

b) MAUBARA - On 16 March 1979, on Maubara beach, more than 20 civilians, almost all of them Chinese, were shot dead by ABRI.

c) BAUCAU - In 1985 in the village of Kraras the entire civilian population of this village was killed by ABRI as a result of the villagers' suspected connections with Fretilin.

d) ATAURO - In the early 1980's, hundreds of people died of hunger in concentration camps. The island of Atauro was turned into a concentration camp for political prisoners from all over East Timor, beginning from the time of the invasion up until the mid-1980's.

All of the above represent only a small number of events which were never made public to the Indonesian community, despite the fact that a number of international human rights organisations had managed to compile data on certain incidents, including the above.

Thousands, even hundreds of thousands, of people fled from death, forced to leave

their homeland and live in exile in countries such as Europe, Australia etc, and assisted in their flight by either the International Red Cross or using unofficial channels.

To return to the question so strongly emphasized by the Public Prosecution Team of development in East Timor, I would like to stress that although there's been a lot of talk about development, so far everyone has neglected to mention that the main beneficiaries of that development are in fact Indonesian immigrants from various parts of the archipelago who now take the place of the countless numbers of dead and those forced for the sake of their safety to leave the land of their ancestors and live in exile.

Development in East Timor has gone hand in hand with mass murder of the local population which is reducing their numbers to make way for the flow of migrants entering the territory as Transmigrants, Civil Servants, or Traders. It is clear, therefore, that the Indonesian government's objective in occupying East Timor is to little by little hand it over to the newcomers and gradually eliminate the entire native population through techniques such as mass killings.

What is the meaning of physical development in a region where the fundamental rights of the people are not respected? Who is that development meant for if little by little the people of that region are gradually being eliminated?

The fruits of development in a particular region should be enjoyed by the people of that region. Since instead of enjoying the fruits of development, the people are being inhumanely slaughtered, development in East Timor is without meaning.

Based on the above facts it can be concluded that development in East Timor is merely a propaganda tool of the Indonesian government aimed at both covering up its human rights violations and defending its occupation of the territory.

VIII. Where are the Principles of Peaceful Coexistence?

As explained above, Indonesia's annexation of East Timor represents a clear violation of international principles such as those contained in the UN resolutions passed on East Timor and the Ten Principles of Bandung or the Principles of Peaceful Coexistence. According to the Principles of Peaceful Coexistence which were agreed upon at the Asia Africa Conference in Bandung, 18 - 24 April 1955, states must:

1. Respect human rights
2. Respect the sovereignty of all nations
3. Never interfere in the internal affairs of other nations
4. Not carry out collective security measures
5. Resolve all international conflicts via peaceful means

The above principles are the conditions of membership of the Non-Aligned Movement.

Indonesia has been honoured with the Chairmanship of the Non-Aligned Movement to realise the basic principles of the Movement which in essence call for mutual respect among member nations for the sake of international peace.

The Indonesian government as a pioneer of the Non-Aligned Movement and creator of

the above noble principles is worthy of great praise and respect. However, it is to be regretted that with its military intervention in the internal affairs of East Timor on 7 December 1975, Indonesia failed to respect East Timor's sovereignty, nor the human rights of its people.

This act is in clear contravention of the written declaration of Foreign Affairs Minister, Adam Malik, handed to Mr Jose Ramos Horta and dated 17 June 1974 (see Foreword, page 2) and the statement of Mr Soebandrio, Indonesian Foreign Minister in 1960, which reads 'We make no claim to the territories under Portuguese control, even though the people of that region are of the same race as us' (see Foreword, page 2).

As a result of Indonesia's violation of the Principles of Peaceful Coexistence in relation to East Timor, and the fact that even today peace and stability are absent from the territory, Indonesia has lost all dignity as pioneer of the NAM and the above noble Principles in the eyes of the international community.

Because of Indonesia's military intervention in our internal affairs, it is our right as nationalists and sons of Timor to defend ourselves and our struggle for the independence of our beloved homeland. In this regard, the Indonesian people who have gone through a similar struggle against the Dutch and the Japanese, must understand and sympathise with our struggle and not behave like colonialists towards us. We are struggling for our rights via peaceful channels, that is throgh peaceful and orderly demonstrations in order to make the Indonesian people aware of the inhuman treatment inflicted by ABRI on our brothers and sisters. Our objective is to bring about a peaceful resolution of our problem in accordance with the Principles of Peaceful Coexistence (Ten Principles of Bandung, Asia Africa Conference, 18 - 24 April 1955). However, our peaceful action has been met with mass murder, imprisonments, torture, charges of criminal and subversive behaviour on the part of the security apparatus, the law enforcers and defenders of the Truth. Such treatment is the same as that inflicted by the colonial powers on the Indonesian independence fighters in their struggle to proclaim the independence of this great Indonesian Republic. However, history is repeating itself and it is now Indonesia which is destroying a people struggling to free themselves from oppression.

1. The Question of Legal Aid

My friends and I experienced a good deal of unjust treatment at the hands of the law enforcement apparatus during the investigations. From the time our cases were investigated in the Police Resort and the District Police Headquarters right up until the time of our trials in the Jakarta District Court, none of us were allowed to be accompanied by a legal advisor, although we had already nominated attorneys to assist us through the investigation proceeedings. In the course of investigations, in both the District Police Headquarters and the High Court, I often requested that the Inspector phone my legal advisor, but this faced nothing but obstructions with explanations such as: 'I want to speed up the investigation process so that you can be released as soon as possible. Calling in legal advisors slows down the process considerably'. Therefore, I along with my colleagues whose health was deteriorating, were forced to accept this situation.

Sometimes I was called up for interrogation in the late afternoon and night when there was no chance of any legal advisors still being at work. Therefore, I do not

agree with what the Public Prosecutor stated in response to our 'Eksepsi' (objection) which reads: 'Note: The legal advisors misquoted the defendant. the Defendant did not state that he hadn't yet appointed a legal advisor, but rather that he doesn't require a legal advisor. The words 'doesn't require a legal advisor' are not my own, but rather those of the Investigating Officer and Law Enforcers in the District Police Headquarters and District Court.

During one of the final investigations in the court which occurred on Saturday, 22 February at 5 pm, I refused to be questioned in the absence of a legal advisor. However, the Investigating Officer stated the following as a reason for continuing with the questioning: 'Your friends upstairs are waiting to be released. If you don't cooperate, the situation next week could change and you could be preventing them or at least slowing down the process of their release'. Because I didn't believe what he said, I was taken to an upstairs room and shown my friends from the doorway. After that, I was forced to accept the situation they had created for me. Thus, I would like to reiterate that the Public Prosecutor's claim that I had stated I didn't require a legal advisor is untrue and unacceptable. I signed the Record of Investigation only to speed up the release of my colleagues, some of whom were already suffering from stomach and kidney complainsts, fever, toothache and other ills which caused them to shout with pain during the night. It was such a situation which forced me to accept the investigations in accordance with the will of the Investigator.

2. In Response to the Citizenship Question

In response to the question of citizenship, let me reiterate my statement that I am a Portuguese citizen, although I may not be able to prove this fact since all the documents relating to Portuguese citizenship along with books and my family's entire home, were burnt to the ground by ABRI in 1976. At that time a number of members of my family, including my father and 2 younger siblings, were shot dead. The introduction of this defence plea right through to the conclusion is proof that not only I but all East Timorese can be said to be Portuguese citizens because:

a) The UN still recognises Portugal as the administering authority in East Timor (UN Resolutions from 1975-1981);

b) The integration of East Timor into the Republic of Indonesia does not represent the aspirations or will of the people of East Timor, but rather political manipulation on the part of the Indonesian government and the result of ABRI's invasion of the territory;

c) Integration is not in line with the main objectives of each of the 5 political parties in East Timor, including Apodeti which aspired to Integration via a referendum and tripartite negotiations between Apodeti, Portugal and Indonesia, with a view to establishing a state allied to Indonesia, all under UN auspices.

All of the above is proof that the integration of East Timor into the Republic of Indonesia was brought about through political manipulation and military force, and therefore it is illegal. The illegality of the integration process means that, by extension, the people of East Timor are Portuguese citizens in spite of the de facto authority Indonesia holds over the territory. The integration is invalid and illegal because it violates international law and is in conflict with the aspirations of the local people. In such circumstances, it is no surprise that when asked the people of East

Timor admit to being Indonesian (?) citizens.

IX. CONCLUSION

In line with legal principles and the facts outlined in this defence plea, the conclusion can be drawn that the integration of East Timor into the Republic of Indonesia is illegal. The following support this conclusion:

1. The processes involved in the preparation and signing of the Balibo Declaration of 30 November 1975 are unclear;

2. Integration is not the will of the people of East Timor;

3. Integration is in conflict with the principle aims of the 5 political parties, including Apodeti which aspired to Integration via a referendum and tripartite negotiations between Apodeti, Portugal and Indonesia, with a view to establishing a state allied to Indonesia, all under UN auspices.

4. At the time the Balibo Declaration was signed on 30 November 1975, East Timor was fully controlled by Fretilin under the banner of the Democratic Republic of East Timor led by President Francisco Xavier do Amaral;

5. The status of the signatories of the Balibo Declaration was that of refugees seeking asylum and material assistance;

6. The Balibo Declaration was made outside the capital of East Timor and moreover outside the Democratic Republic of East Timor since at that time Balibo and surrounds were under the control of the East Timorese National Liberation Army, Falintil;

7. Administration of East Timor hadn't yet been taken over by Indonesia;

8. The Indonesian Armed Forces invaded East Timor on 7 December, 1975;

9. The surrendering of authority over a region from one nation to another must be given UN recognition and must be acknowledged according to international legal principles;

10. The occupation goes against the spirit of the Foreword of the 1945 Constitution and Indonesia's Pancasila;

11. The occupation violates UN Resolutions passed between 1975 and 1981, all of which recognise Portugal as the legitimate administering authority over East Timor, even to the present day;

12. The occupation is in conflict with the written statement of Foreign Minister Adam Malik presented to Mr Jose Ramos Horta and dated 17 June 1974 (see Introduction, page 2);

13. The occupation is in conflict with the statement of Indonesian Foreign Minister Soebandrio who in 1962 stated that: 'We make no territorial claims to the

territories under Portuguese control, even though the people of that region are of the same race as us'.

14. The occupation violates the 10 Bandung Principles formulated at the Asia Africa Conference held from 18 - 24 April 1955 and which are known as the Principles of Peaceful Coexistence;

15. The war which is still raging today and the actions of the youth and people in general are proof that integration is not the choice of the people. Therefore, it follows that the concept of integration contained in the Balibo Declaration is not one which represents the free and sincere will of the East Timorese population.

Based on these fundamental principles and the facts outlined above, I a son of East Timor, once again appeal to the Indonesian government to acknowledge that the time has come to change its position in relation to East Timor and to resolve the issue justly, wisely and exhaustively for the good of both sides and for the sake of the good name of the Indonesian government.

In consideration of the above, I would like to say that I find the charges laid against me by the Public Prosecutor, that is a prison sentence of 13 years, to be unacceptable, and I appeal to the Honourable Judge to release me from detention.

And so ends my defence plea which I respectfully submit for the consideration of members of this Court.

Jakarta, 2 May, 1992

The Defendant
Joao Freitas da Camara